

Remarks:

Applicants have read and considered the Office Action dated May 29, 2008 and the references cited therein. Claims 1, 7, 11, 18 and 73 have been amended. Claims 10, 21-61 and 66-67 have been cancelled without prejudice or disclaimer. New claim 81 has been added. Claims 1-9, 11-20, 62-65 and 68-81 are currently pending. Reconsideration and reexamination are hereby requested.

Independent claim 1 has been amended to incorporate the subject matter of dependent claim 66, which has been cancelled. Claims 7, 11, 18 and 73 have been amended for clarification. Claims 10, 21-61 and 67 were previously cancelled. Support for the amendments can be found throughout the specification and drawings as originally filed, including at least: page 8, lines 18-21; page 9, lines 21-29; and Figures 2-6.

1. Objection to the Specification

The specification was objected to as it fails to provide proper antecedent basis for the term "subsequently" recited in claims 1 and 11.

Claims 1 and 11 have been amended to replace the term "subsequently" by the term "then". It is respectfully submitted that the specification and drawings as originally filed clearly support the recited element wherein the line of weakness is configured such that the line of tear propagates along the portion of the perimeter of the skirt and then propagates along the portion extending across the tension ring (see, for example, page 10, lines 7-22 and Figures 5 and 6).

Accordingly, Applicants respectfully request the objection to the specification be withdrawn.

2. Rejection of Claims 1-9, 11-20, 62-66 and 68-80 under 35 U.S.C. 102

Claims 1-9, 11-20, 62-66 and 68-80 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,840,137 to Faulstich (hereinafter referred to as "Faulstich").

As discussed below, Applicants respectfully submit that claims 1-9, 11-20, 62-65 and 68-80, as amended, are allowable and respectfully request the rejections of these claims be withdrawn.

Claims 1-9 and 62-65

Independent claim 1 has been amended to incorporate an element recited in claim 66, which has been cancelled. Claim 1 is reproduced below with this element being emphasized:

A threadless cap for closing a potable liquid bottle, the potable liquid bottle having a neck with an upper edge defining a discharge opening, said threadless cap comprising:

- a lid for overlying and sealing the discharge opening, said lid including a tension ring for retaining said cap on the neck of the bottle, said tension ring having an inwardly extending rib for engaging the neck of the bottle;
- a skirt depending from said lid, said skirt including a line of weakness facilitating a manual tear of said skirt, said line of weakness extending along a portion of a perimeter of said skirt, said line of weakness including a portion extending across said tension ring to reduce a retaining force exerted by said tension ring on the neck of the bottle when a line of tear propagating as a result of a manual pull applied on said skirt extends across said tension ring, said line of weakness being configured such that the line of tear propagates along the portion of the perimeter of said skirt and then propagates along the portion extending across said tension ring; and
- a tear stop for preventing the line of tear to propagate beyond said tear stop, **said tear stop having a portion configured for engaging the neck of the bottle.**

It is respectfully submitted that Faulstich neither discloses nor suggests a threadless cap for closing a potable liquid bottle which comprises a tear stop for preventing a line of tear to propagate beyond the tear stop, where the **tear stop has a portion for engaging a neck of the potable liquid bottle**. As indicated in the present patent application, the portion of the tear stop engaging the neck of the bottle assists the tension ring of the cap in retaining the cap on the neck of the bottle (see page 9, lines 27 to 29).

The element of claim 1 specifying that the tear stop has a portion configured for engaging the neck of the bottle was recited in claim 66 (now cancelled) but was nowhere addressed by the Office Action. As such, Applicants assert that the rejection of claim 66 was improper.

Faulstich discloses a cap to close a threaded or unthreaded water bottle, where the cap has an external bead 34 and internal rings 36, 37 to retain the cap on the water bottle's neck as well as gussets 46, 48 which guide how the cap's skirt 38 is torn along score lines 42, 43 (col. 3, lines 6-15 and 34-42; col. 4, lines 15-18; and Figures 2, 3 and 5). Faulstich in no way discloses or suggests that the gussets 46, 48 have a portion engaging the water bottle's neck. In fact, Faulstich's Figures 3 and 5 clearly show that the internal gusset 48 does not have any portion for engaging the bottle's neck proximate the cap's external bead 34 and internal rings 36, 37 to assist the external bead 34 and internal rings 36, 37 in retaining the cap on the bottle's neck.

Accordingly, Faulstich neither discloses nor suggests a threadless cap for closing a potable liquid bottle which comprises a tear stop for preventing a line of tear to propagate beyond the tear stop, where the **tear stop has a portion configured for engaging a neck of the potable liquid bottle**. Since Faulstich fails to disclose or suggest at least one element of claim 1, Faulstich does not anticipate this claim. Applicants therefore respectfully request that the rejection of claim 1, which is believed to be allowable, be withdrawn.

Each of claims 2-9 and 62-65 depends on claim 1 and thus incorporates by reference all of the elements of that base claim, including that shown above to be absent from Faulstich. Applicants respectfully request that the rejection of claims 2-9 and 62-65, which are believed to be allowable, be withdrawn.

Claims 11-20 and 68-72

Claim 11 is reproduced below with a particular element being emphasized:

A threadless cap for closing a potable liquid bottle, the potable liquid bottle having a neck with an upper edge defining a discharge opening, said threadless cap comprising:

- a lid for overlying and sealing the discharge opening, said lid including a tension ring for retaining said cap on the neck of the bottle, said tension ring having an inwardly extending rib for engaging the neck of the bottle; and
- a skirt depending from said lid, said skirt including a line of weakness facilitating a manual tear of said skirt, **said line of weakness extending along a portion of a perimeter of said skirt adjacent to said tension ring**, said line of weakness including a portion extending across said tension ring to reduce a retaining force exerted by said tension ring on the neck of the bottle when a tear line propagating as a result of a manual pull applied on said skirt extends across said tension ring, said line of weakness being configured such that the tear line propagates along the portion of the perimeter of said skirt and then propagates along the portion extending across said tension ring.

It is respectfully submitted that Faulstich neither discloses nor suggests a threadless cap comprising a tension ring for retaining the cap on a potable liquid bottle's neck and a skirt that includes **a line of weakness extending along a portion of a perimeter of the skirt adjacent to the tension ring**.

Faulstich discloses a cap to close a threaded or unthreaded water bottle, where the cap has an external bead 34 and internal rings 36, 37 to retain the cap on the water bottle's neck as well as a skirt 38 that can be torn along score lines 42, 43, 44 (col. 3, lines 6-15 and 25-34; col. 4,

lines 12-23; and Figures 2-4 and 6). Faulstich's horizontal score line 43 does not extend along a portion of a perimeter of the skirt 38 adjacent to the external bead 34 and internal rings 36, 37. On the contrary, Faulstich's horizontal score line 43 is spaced apart from the external bead 34 and internal rings 36, 37 by about one-third of the height of the skirt 38¹.

Accordingly, Faulstich neither discloses nor suggests a threadless cap comprising a tension ring for retaining the cap on a potable liquid bottle's neck and a skirt that includes **a line of weakness extending along a portion of a perimeter of the skirt adjacent to the tension ring**. Since Faulstich fails to disclose or suggest at least one element of claim 11, Faulstich does not anticipate this claim. Applicants therefore respectfully request that the rejection of claim 11, which is believed to be allowable, be withdrawn.

Each of claims 12-20 and 68-72 depends on claim 11 and thus incorporates by reference all of the elements of that base claim, including that shown above to be absent from Faulstich. Applicants therefore respectfully request that the rejection of 12-20 and 68-72, which are believed to be allowable, be withdrawn.

Claims 73-80

Claim 73 is reproduced below with a particular element being emphasized:

A threadless cap for closing a water bottle, the water bottle having a neck with an upper edge defining a discharge opening, said threadless cap comprising:

¹ Faulstich's horizontal score line 43 is spaced apart from the external bead 34 and internal rings 36, 37 by about one-third of the height of the skirt 38 such that, when the skirt 38 is torn to remove the cap from the bottle's neck, there remains enough of the skirt 38 to reinstall the cap on the bottle's neck in order to protect the bottle's neck during transportation back to bottling works (col. 2, lines 7 to 10; col. 4, lines 28 to 32; and Figure 4). Therefore, Faulstich *teaches away* from placing the horizontal score line 43 adjacent to the external bead 34 and internal rings 36, 37 since this would go against Faulstich's teachings of keeping enough of the skirt 38 when it is torn to allow reinstallation of the cap on the bottle's neck.

- a lid for overlying and sealing the discharge opening, said lid including a tension ring for retaining said cap on the neck of the bottle, said tension ring having an inwardly extending rib for engaging the neck of the bottle; and
- a skirt depending from said lid, said skirt including:
 - **a first weakness line segment below and adjacent to said tension ring and extending along said tension ring for at least half of a perimeter of said tension ring;**
 - a second weakness line segment extending across said tension ring; and
 - a pull tab to initiate a tear which propagates along said first weakness line segment in order to partially separate said skirt from said lid and then along said second weakness line segment to rupture said tension ring and allow removal of said cap from the neck.

For reasons similar to those discussed above in relation to claim 11, Faulstich neither discloses nor suggests a threadless cap comprising a tension ring for retaining the cap on a water bottle's neck and a skirt that includes **a weakness line segment below and adjacent to the tension ring and extending along the tension ring for at least half of a perimeter of the tension ring.**

Accordingly, Faulstich fails to disclose or suggest at least one element of claim 73 and thus does not anticipate that claim. Applicants therefore respectfully request the rejection of claim 73, which is believed to be allowable, be withdrawn.

Each of claims 74-80 depends on claim 73 and thus incorporates by reference all of the elements of that base claim, including those shown above to be absent from Faulstich. Applicants respectfully request the rejection of claims 74-80, which are believed to be allowable, be withdrawn.

CONCLUSION

Claims 1-9, 11-20, 62-65 and 68-80 are believed to be allowable. Favorable reconsideration is requested. Allowance of the present patent application is earnestly solicited.

If the Examiner considers that claims of the present patent application are not allowable, for any reason, the Applicants respectfully request the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims or in making constructive suggestions so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

A speedy and favorable action in the form of a Notice of Allowance is hereby solicited. If the Examiner feels that a telephone interview may be helpful in this matter, please contact Applicants' representative at (612) 336-4728.

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725.



Respectfully submitted,

MERCHANT & GOULD P.C.

Dated: _____

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By: _____

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